

# History of the University of Puget Sound School of Law

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Founded in 1972, the University of Puget Sound School of Law is a relatively young institution, still in its teens. Its gestation period, however, extends back at least sixty years. As long ago as 1912, prominent Tacoma attorneys proposed to found a law school associated with the University of Puget Sound (UPS).<sup>1</sup> The University's Board of Trustees authorized the proposal, but only with the understanding that the law school would be conducted at no expense to the University. The University agreed merely to supply classrooms and books.

The law school was to open when sixteen students had been secured. The following year, even without the requisite number of students, the law school began operations. However, the Board of Trustees voted in May of 1913 to discontinue the law school because the University was experiencing severe financial problems at the time.<sup>2</sup>

In the ensuing years, officials at UPS periodically raised the issue of creating a law school. Various studies were undertaken, but it was not until the late 1960s that a school of law was considered again as seriously as it had been in 1912.

In the late 1960s the University was fiscally as strong as it had ever been in its eighty-year history and the pool of law school applicants was dramatically increasing.<sup>3</sup> De-escalation of military activities in Vietnam resulted in fewer young men being drafted. Returning veterans received benefits that allowed them educational funding beyond that otherwise available. The changing attitudes of society regarding women also accounted for the increase in the applicant pool because of women's growing interest in legal education. There were population increases in the college and law school age sector

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1. E. TODD, *COLLEGE OF PUGET SOUND: A DREAM REALIZED* 232 (n.d.).

2. VII Minutes of the Board of Trustees, College of Puget Sound 3 (May 9, 1913).

3. See *The National Observer*, Mar. 22, 1971, at 7.

because of baby-boomers. Another factor was the high unemployment rate. Specifically, in the Northwest, a large number of well-educated persons, particularly Boeing employees, became discontented with their employment and decided to return to school. Finally, there was a prevailing social attitude that practicing law was a worthy occupation and a means to the betterment of society.

While there were already two Washington law schools in existence, there appeared to be a need for a third law school to serve the growing pool of applicants. The University of Washington's School of Law was preparing to move into larger quarters, and the Gonzaga Law School (which had been exclusively an evening school) opened its first day division in 1970.<sup>4</sup> Yet, many qualified applicants were still being denied the opportunity for a legal education.

Officials of the University of Puget Sound invited Gordon D. Schaber (then Dean of the McGeorge School of Law, University of Pacific) to study the need for another law school in Washington generally, and specifically in Tacoma. The report, dated February 2, 1971, indicated that the Seattle-Tacoma-Olympia metropolitan area was the largest in the country served by only one law school and by no part-time or evening programs.<sup>5</sup> Dean Schaber also supplied figures based on those of the McGeorge School of Law with which UPS officials could analyze the financial feasibility of the venture.

The Schaber report was forwarded to the "Ad Hoc Committee on Feasibility of a Law School at UPS." This committee, chaired by Federal District Court Judge George H. Boldt, reviewed the report with the proviso in mind that the University would only consider establishing a law school that would be first class from the outset. On August 6, 1971, the committee unanimously approved the proposal and recommended that the Board of Trustees take appropriate steps toward establishing such a law school, which the Board of Trustees deemed both academically and financially feasible.

The proposal went next to the UPS faculty, who in November voted 118 to 5 in favor of creating a law school. Finally, on December 20, 1971, the Board of Trustees approved

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4. See *Law School News*, 26 WASH. ST. B. NEWS, Jan. 1972, at 27.

5. Letter from Gordon Schaber, Dean, McGeorge School of Law, University of the Pacific, to Lloyd Stuckey, Vice-President, University of Puget Sound (Feb. 2, 1971).

a resolution to establish a school of law at the University.<sup>6</sup> The immediate need was to hire a reputable dean to organize and spearhead the effort. The Dean Selection Committee, wasting little time, announced on January 10, 1972, the hiring of Joseph A. Sinclitico, Jr., a 1939 graduate of Harvard Law School, who had been Dean at the University of San Diego School of Law from 1964 to 1970.<sup>7</sup> During his tenure there, the University of San Diego Law School's enrollment had increased six-fold and the school had received accreditation from the American Association of Law Schools (AALS). Sinclitico brought with him the credibility that a fledgling law school would need.

Because the law school was to open in September of 1972, Dean Sinclitico had to begin work immediately. The law school was without a faculty, without students, and without a location. In other words, at that time, Sinclitico himself literally comprised the entire law school.

At the 1971 annual meeting of the American Association of Law Schools, Sinclitico interviewed forty-four candidates for faculty positions, in two days. The first faculty member who was persuaded to sign up for the new venture was James E. Beaver.<sup>8</sup> Professor Beaver, who was hired from Indiana University, graduated number one in his class from the University of Chicago School of Law (1958) and had previously taught at the University of Washington School of Law. Dean Sinclitico's next faculty members were Richard Settle, J.D. University of Washington 1967, and sociology professor at UPS; and Peter Tillers, J.D. Yale 1969, who was in the process of earning an L.L.M. degree from Harvard.

The new Dean set up his office in Tacoma's old Winthrop Hotel at Ninth and Broadway.<sup>9</sup> This was, ironically, only one block away from where the law school was ultimately relocated almost a decade later, in 1980. The Dean set an optimal enrollment figure of 335 (235 day, 100 evening) students, had brochures printed, and began accepting applications for the Fall 1972 term.

Meanwhile, the search for a home continued. After considering the possibility of remodeling the Winthrop Hotel as a

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6. Tacoma News Tribune, Dec. 21, 1971, at 1.

7. News from University of Puget Sound News Bureau, Jan. 10, 1972.

8. Seattle Times, Feb. 6, 1972, at G9.

9. News from University of Puget Sound News Bureau, Jan. 31, 1972.

site for the law school (using the chandeliered ballroom as the library reading room), UPS decided instead to locate the law school in the new Benaroya Business Park at 8811 South Tacoma Way.<sup>10</sup> One of the advantages of this site was that it was still under construction and could be designed for the law school's specific needs. Leasing the two-story, 30,000 square-foot building for five years, the University still planned to locate a more permanent facility on the main campus.

In the meantime, the law school had received applications and accepted students for the 1972-73 term. The law school's admissions formula was simple: minimum standards were set and all qualified applicants were accepted on a first-come, first-served basis.<sup>11</sup> This was in contrast to the common professional standard used by other law schools, which was to set a deadline and then start skimming from the top. The school's late start in recruiting and its recent vintage undoubtedly influenced its admissions formula, but at least one other factor was crucial in this determination.

In 1971, Marco DeFunis, a University of Washington Law School applicant, sued the University of Washington for discriminatory admissions practices. He claimed that the affirmative action program used by the Law School in admitting minorities violated his constitutional rights. The King County Superior Court ordered the University of Washington Law School to admit DeFunis in the Fall of 1971. As UPS Law School prepared to open its doors, the case was still being appealed. The United States Supreme Court ruled ultimately that the case was moot—DeFunis was ready to graduate by the time his appeal reached the Supreme Court.<sup>12</sup> The last thing the fledgling UPS Law School needed was a lawsuit before the doors even opened, so its preliminary admissions policy made good sense in filling the first entering class.

By April of 1972, the entire faculty had been chosen.<sup>13</sup> In addition to Dean Sinclitico and Professors Beaver, Settle, and Tillers, the faculty included: Anita M. Steele, Librarian (J.D. Virginia 1971), completing a degree in law librarianship at the University of Washington; Thomas Heitz (J.D. Missouri-K.C. 1965), former instructor at the Naval Justice School; Thomas J.

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10. News from University of Puget Sound News Bureau, Mar. 23, 1972.

11. See *supra* note 8.

12. See *DeFunis v. Odegaard*, 416 U.S. 312 (1974).

13. News from University of Puget Sound News Bureau, Apr. 6, 1972.

Holdych (J.D. Illinois 1970), attorney with O'Melveny & Myers in Los Angeles; John W. Weaver (J.D. Michigan 1969), attorney with Barnes, Hickam, Panzer & Boyd in Indianapolis; and Charles Wiggins (J.D. Hastings 1969), legislative counsel to the Governor of Washington. Despite the impeccable credentials of this group, only Professor Beaver had ever taught in a law school before.

In June, construction of the "interim" building was completed. The Dean and the Librarian, each with two staff assistants, moved into the new quarters. Nearly 15,000 volumes were moved into the library while more arrived each day. About 50,000 volumes were in place on the first day of school. On September 5, the law school officially opened its doors to register 427 first-year law students.<sup>14</sup> The first-year class included at least 150 part-time and evening students.

Dean Sinclitico had earlier announced that the curriculum would "follow solid traditional patterns of legal education."<sup>15</sup> Since the entire student body consisted of first-year students, the curriculum was well defined: no electives were offered. Each faculty member taught either two or three large sections of the same course.

Founding ceremonies were held on October 29. The ceremony featured an invocation by Rabbi Raphael Levine, speeches by Dean Sinclitico, Professor Beaver, and student representative, Roger Sherrard. Also speaking were Dr. R. Franklin Thompson (President of UPS), Norton Clapp (Chairman of the Board of Trustees of UPS), Governor Dan Evans, and Robert Meserve, the President of the American Bar Association (ABA). The Master of Ceremonies was Judge George Boldt, who was then chairman of the National Pay Board—the body responsible for enforcement of the wage and price controls imposed by the Nixon Administration.<sup>16</sup>

Several months later, the law school received provisional accreditation from the ABA.<sup>17</sup> The inspection team included Professor Millard Ruud from the University of Texas. Perhaps Professor Ruud's report best summarized the whirlwind events of the school's birth. "The University of Puget Sound may

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14. News from University of Puget Sound News Bureau, Oct. 20, 1972.

15. Puget Sound Trail, Sept. 15, 1972, at 3.

16. News from University of Puget Sound News Bureau, Oct. 20, 1972 (different news release than note 14).

17. News from University of Puget Sound News Bureau, Mar. 8, 1973.

have set some sort of record in taking its law school from the 'drawing board' to the operational phase," the report stated. "Some might have suggested that the law school should not be started so fast and so large. But skeptics may again have been confounded." Dean Sinclitico called the provisional accreditation "the product of great effort on the part of university officials, law school administrators, our faculty, students and staff" and added that it was "not to be looked upon as a final phase but rather as a first step."<sup>18</sup> At the first meeting of the Board of Visitors of UPS Law School, on July 28-29, 1973, Chairman of the Board, Judge Boldt, said: "All of us feel the creation of the school has been nothing short of a miracle."<sup>19</sup>

The honeymoon was over at the end of the school's first year. Academic failure claimed twenty-five percent of the class and an additional nine percent were placed on academic probation.<sup>20</sup> Fifty-four students had dropped out voluntarily during the year. The attrition rate totalled thirty-five percent. Some students complained that the school had enrolled less promising law students in order to obtain their tuition dollars and to gain a reputation as a tough school. Dean Sinclitico denied that such a policy existed, and, in fact, statistics showed no correlation between undergraduate grade point averages, LSAT scores, and academic failure at the law school.

The school also had to respond to the criticism that it was exacerbating the perceived problem of lawyer overpopulation, and that there were not enough jobs for these soon-to-be graduates.<sup>21</sup> The response from the institution was that the demand for legal education was strong and the need should be met. The law school graduates were expected to enter business as well as the practice of law. Also on the horizon were expanded career opportunities such as those with legal service groups, outside of the traditional law firms.

Despite the critics, the law school continued to grow each year with new entering classes, new faculty members, and an ever-expanding curriculum. New faculty members in the second year were: George Neff Stevens (former dean of the University of Washington School of Law and former dean of Northwestern School of Law, Lewis and Clark College),

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18. *Id.*

19. Tacoma News Tribune, June 30, 1973, at 12.

20. Puget Sound Trail, Sept. 14, 1973, at 4.

21. See Tacoma News Tribune, Jan. 19, 1975, at A8.

George L. Priest, J. Clifton Fleming, Jr., and I. Boyce Covington, III. New faculty members in the third year were: Douglas M. Branson, Sheldon S. Frankel, John Q. La Fond, Bruce F. Meyers, George R. Nock, William C. Oltman, David M. Roberts, and John A. Strait.

By August of 1974, eighteen students who had undertaken an accelerated program became the first graduates of the University of Puget Sound School of Law.<sup>22</sup> By the time of the February 1975 bar exam, other UPS law students had also graduated. Of the forty-six UPS graduates taking the Washington State Bar Exam, forty-two (ninety-one percent) passed.<sup>23</sup> The overall passage rate in the State was sixty-nine percent. It was a vindication for the school—a sign that the education offered was of the highest quality.

In the Fall term of 1974-75, the first academic year with three full classes, the school had 730 students, 17 full-time faculty, 5 professional librarians, and 70,000 volumes in its library. From September 29 to October 2, 1974, a joint team from the AALS and the ABA visited for the purpose of final accreditation inspection. By March of 1975, both organizations had given UPS full accreditation.<sup>24</sup>

The 1974-75 academic year also marked the first publication of the Law Review. Although the first issue was an intramural publication, guided by Professor Holdych, it set the framework and provided experience for a national publication to be released the following year. That year also marked the institution of the Volunteer Income Tax Assistance (VITA) program. The Internal Revenue Service sponsored program supplied law student assistance to the low-income and elderly in preparing their tax returns. This program was the first of many clinical opportunities available to students to enhance their classroom learning with practical experience.

The Student Bar Association (SBA) was another entity established that year. Prior to 1975, student government functions had been handled at town hall type meetings. With 730 students attending both day and night sessions, such meetings were no longer practical.

The 1974-75 academic year culminated in the first commencement exercises for the UPS School of Law. Previous

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22. *Id.*, Aug. 17, 1974, at A11.

23. Puget Sound Trail, May 2, 1975, at 1.

24. *Id.*, March 7, 1975, at 1.

graduates had gone through joint ceremonies along with the rest of the University. Appropriately, the exercises were held on May 1: Law Day. Some 120 graduates listened as retired United States Supreme Court Justice Tom Clark spoke about professional responsibility among attorneys.<sup>25</sup> He also praised the school and its students for their remarkable performance on the bar exam. UPS law school was now the largest in the state with 900 students (600 day, 300 evening).

Early in the year, Dean Sinclitico announced his resignation as dean, effective in May of 1976. After a sabbatical leave, he would return to assume full-time teaching responsibilities.<sup>26</sup> Following an exhaustive search, a new dean was announced in April: Professor Wallace M. Rudolph (J.D. Chicago), from the University of Nebraska.<sup>27</sup>

A major concern for the incoming dean would be the permanent site of the law school, which was outgrowing the "interim" building in the Benaroya Business Park. Moreover, the ABA/AALS accreditation-inspection committee had reported that a different arrangement for physical plant facilities was desirable.

The mid-1970s brought problems for law schools generally. The persistent complaint of lawyer overpopulation continued, but with added fervor; Watergate and the lawyers implicated in it brought the credibility of the legal profession to issue. Law schools responded by requiring students to take a course in professional responsibility to graduate. Whether linked with social attitudes or because of demographic factors, there was a diminishing pool of applicants for law schools; UPS was no exception to this national trend.<sup>28</sup> Because of the law school's heavy dependence on tuition for its operations, a decrease in enrollment would decrease revenue, which would make it more difficult to maintain a quality program. Alternatively, maintaining large class sizes could result in allowing less qualified students to enroll. Overriding other concerns was the need for new quarters, to which Dean Rudolph addressed himself.

Dr. Philip M. Phibbs, President of the University, esti-

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25. Tacoma News Tribune, May 2, 1974, at A4.

26. *Id.*, Oct. 6, 1975, at A3.

27. Tacoma News Tribune, Apr. 2, 1976, at A21.

28. See A. STEVENS, *LAW SCHOOL: LEGAL EDUCATION IN AMERICA FROM THE 1850S TO THE 1980S* at 236 (1983).



mated the cost of a new building on campus at four million dollars. Without strong law school alumni to rely on, a fund raising campaign of such magnitude would be extremely difficult. Furthermore, the University had other obligations that demanded equally high priority. The University's centennial fund-raising drive, which might have proved useful to generate the necessary revenue, was still a decade away.

Jim Street, Student Bar Association President, and later a member of the Seattle City Council, recognized a crossroads of much greater magnitude when addressing the Board of Visitors. He said that feelings of "potential" and "momentum" might well be the most valuable assets of the law school.<sup>29</sup> "If the school fails to capitalize on those assets within the next few years, chances of rising permanently from the ranks of the mediocre may be lost."<sup>30</sup>

A year later, Dean Rudolph proposed a solution: locate the law school in downtown Tacoma at a cost greatly below the cost of a new building on campus. Initial questions were raised as to whether such a plan would satisfy the ABA. As it turned out, the location was not their concern. The ABA merely required that the University own and control the building. The site being considered was the old Rhodes Building, which had been vacant for four and one-half years, on the corner of Eleventh and Broadway.<sup>31</sup> Administrators also investigated acquiring title to the buildings at Benaroya Business Park as a way to satisfy the ABA while allowing the University more time to develop a plan for a building located on campus.

Timing was a major factor in determining the direction taken. During the late 1970s, the Carter Administration strongly encouraged urban renewal and the federal government offered subsidies to cities for special projects that would rebuild urban centers. Tacoma, like many other cities, had a deteriorated downtown business area. Dean Rudolph and other University officials began to investigate whether grants and low interest loans might be available for law school use through the City of Tacoma, as a project to revitalize the downtown area.

As the proposal crystallized, it became more than just a

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29. University of Puget Sound School of Law Board of Visitors, Report of the 4th Meeting 15 (1976).

30. *Id.* at 15.

31. Tacoma News Tribune, Apr. 26, 1978, at A1.

building for the law school. A "law center" was proposed that would include Division Two of the State Court of Appeals and various law offices, in addition to the law school. Not only did the law center proposal broaden the appeal of the project politically, but it also allowed for greater depth in educational opportunities for law students in clinical areas.<sup>32</sup> A common theme in legal education at the time was a need for more practical training. The movement was spearheaded by Chief Justice Warren Burger of the United States Supreme Court, who had publicly declared that over half of our country's trial lawyers were incompetent.<sup>33</sup> He urged law schools to shoulder the task of creating quality trial lawyers by instituting new curricula in clinical and similar kinds of education. Thus, the law center proposal was ripe from another perspective.

In May of 1978, the UPS Board of Trustees authorized President Phibbs to proceed with negotiations to purchase the Rhodes Building. In July, the Tacoma City Council decided to support the law center project by seeking financial assistance through federal sources. In May of 1979, negotiations were completed and the UPS Board of Trustees gave final approval for construction of a nine million dollar UPS Law Center in downtown Tacoma.<sup>34</sup> The University received two federal loans totalling four and one-half million dollars to help finance the project. President Phibbs announced that the remainder of the cost would come from gifts (two and one-half million dollars), private loans, and income from operating the law center.

Having provided the necessary leadership in obtaining the new law center, Dean Rudolph resigned in November of 1979. Associate Professor and Associate Dean Donald Cohen served as temporary Dean of the Law School from the Spring of 1979 through the Fall of 1980.

By August of 1980, the law center was ready for its new tenants to move in. The faculty, staff, and all their possessions, as well as the 140,000 volume law library, made the trek to downtown Tacoma. At the end of August, classes began in the remodeled facility with the arrival of approximately 800 students.

September 13, 1980, marked the dedication of the Norton

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32. Tacoma News Tribune, Mar. 8, 1979, at A3.

33. Burger, *The State of Justice*, 70 A.B.A. J. 62, 64, 65 (Apr. 1984).

34. Tacoma News Tribune, May 27, 1979, at H7.

Clapp Law Center.<sup>35</sup> The law center was named in honor of Norton Clapp, former chairman of the Weyerhaeuser Company, who had been a trustee of the University of Puget Sound since 1932. To quote President Phibbs: "No one has been more responsible for UPS' growth in size and stature than Clapp."<sup>36</sup>

The dedication ceremonies brought Chief Justice Warren Burger to Tacoma. The strong proponent of clinical legal education called the law center "a remarkable experiment in legal education. . . . There is no school in the nation that can do what you are doing here as you draw together the three branches of the legal profession—teaching, practice, and judgment."<sup>37</sup>

The new approach began almost immediately to pay dividends. The U.S. Department of Education awarded a 75,000 dollar grant to the law school for its clinical law program. The grant proposal was ranked first among 110 applications. The civil law clinic, under the direction of Professor Alan Kirtley, allowed sixty-five third-year students to obtain practical experience by representing low-income clients in the areas of family law and public entitlements.

In addition, the appeal of the law center concept was one of the factors involved in the "enrollment aberration" of 1980-81. Together with other factors, the law center concept and the new location proved so attractive to prospective students that an entering first-year class of 466 (130 students more than anticipated) arrived on the day of registration.<sup>38</sup>

January of 1981 brought a new dean, Fredric Tausend, from the Seattle law firm of Schweppe, Doolittle, Krug, Tausend, & Beezer. As a respected practicing attorney, Dean Tausend was an appropriate choice, given the clinical focus of the school.<sup>39</sup>

In the years following, the law school significantly increased its clinical program offerings, although only a small percentage of students were able to take advantage of them. The law school also became noted for its legal writing program.<sup>40</sup> Although legal writing had always been an important part of the UPS curriculum, in 1981 the law school embarked

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35. Tacoma News Tribune, Sept. 7, 1980, at C1.

36. *Id.*

37. See BULLETIN, 1984-85 UNIVERSITY OF PUGET SOUND SCHOOL OF LAW, cover.

38. Tacoma News Tribune, Nov. 16, 1980, at D2.

39. Tacoma News Tribune, Aug. 3, 1980, at F2.

40. Mathewson, *Verbatim*, STUDENT LAWYER, Dec. 1987, at 11.

on the development of a comprehensive program that placed even greater emphasis on writing through a mandatory two-year writing course with an optional third-year component. In addition, a tutorial writing program was offered to students identified as having writing deficiencies.

The law library also grew in terms of collection and staff. It was the first law library in the region to offer both the LEXIS and WESTLAW computer-assisted legal research services. It was also the first library in the region to provide word-processing facilities for its students. The library has consistently been at the forefront of technological innovations that benefit law students and law faculty, particularly with regard to improved access to information resources.

Maintaining a legal education institution of high quality provided a different challenge in the 1980s from the challenge of the early 1970s. The number of law school applicants steadily declined, while competition among law schools for the top students increased.<sup>41</sup> For a school as tuition-dependent as UPS Law School, the dilemma was clear: maintaining class size would probably mean accepting students less qualified than those previously enrolled. Accepting less qualified students might reduce the reputation of the school and make it more difficult to attract the best students, ultimately resulting in a gradual decline of the law school. The alternative was to reduce the size of the student body. However, this would also decrease revenues, probably resulting in budget cuts that might affect the overall quality of the school programs. A large endowment would seem the ideal solution, but the short history of the school naturally meant that there was not a well-established body of older, wealthy alumni from which to draw. Consequently, under Dean Tausend, both student enrollment and law school programs were expanded.

Of perennial significance for the law school was the bar passage rate of its graduates. Members of the early graduating classes had performed well above average on the Washington State Bar Exam.<sup>42</sup> That high level of achievement had fallen in later years. Because there are few standards by which to measure legal education, part of the public's perception of the quality of a law school comes from the success of its graduates

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41. LAW SCHOOL ADMISSION COUNCIL/LAW SCHOOL ADMISSION SERVICES, THE OFFICIAL GUIDE TO U.S. LAW SCHOOLS 1988-89, at 284-85 (1988).

42. See *supra* note 22.

on the bar. The smaller pool of law school applicants in the 1980s increased the risk of accepting students who would ultimately be less likely to pass the bar. Furthermore, UPS had been established as a "law school of opportunity"—one where a person who might not have been given a chance elsewhere, but showed some evidence of potential, could still obtain a quality legal education. Again, the tendency of such a policy ran counter to a high bar passage percentage. Thus, the later 1980s brought a corresponding change in policy relating to the size of the student body.

In July of 1986, Professor James E. Bond (J.D. Harvard 1967) came from Wake Forest to the University of Puget Sound to succeed Dean Tausend. In 1987, the Law School admitted 30 fewer first-year students. Under Dean Bond's leadership the law school has begun to reduce the size of the student body by limiting first-year enrollment to 300 students, or 270 full-time-equivalent students. The goal is a total of 750 full-time-equivalent students.

Other goals for the 1990s include continued emphasis on educational quality, and enlargement of the school's endowment. In the Autumn of 1988, the University of Puget Sound Board of Trustees approved the commitment of additional resources to the law school from the University's endowment to further the educational objectives of the law school. Continued dedication to quality instruction and a quality library, together with expanded cultivation of alumni and other potential donors, will ensure the ongoing improvement and the future excellence of the University of Puget Sound School of Law.